

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

KATHY WAGNER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-4261-CV-C-NKL
)	
COOKBOOK PUBLISHERS, INC.,)	
and)	
JOHN "NICK" KARSON,)	
)	
Defendants.)	

ORDER

Pending before the Court is Defendants' Motion to Dismiss Count VII of Plaintiff's Complaint [Doc. # 33]. For the reasons set forth below, the Court grants Defendants' Motion.

Plaintiff claims that during her employment at Cookbook Publishers, Inc. ("Cookbook"), she was sexually harassed by her supervisor, John "Nick" Karson ("Karson"). Count VII of Plaintiff's Complaint asserts a claim for intentional infliction of emotional distress arising from that harassment [Doc. # 1].

Under Missouri law, worker compensation is the exclusive remedy for employees who are injured on the job. *See* Mo. Rev. Stat. § 287.120 (establishing exclusivity of workers' compensation remedies). Missouri courts hold that section 287.120 precludes employees from pursuing infliction of emotional distress claims that arise from sexual harassment in the workplace. *See Yount v. Davis*, 846 S.W.2d 780, 782-83 (Mo. Ct. App.

1993) (affirming dismissal of common law “intentional infliction of emotional distress” claims against employer that arose out of sexual harassment). Missouri courts apply the same rule to other tort claims as well. *See Thompson v. Western-Southern Life Assur. Co.*, 82 S.W.3d 203, 209-10 (Mo. Ct. App. 2002) (assault and battery); *State ex rel. FAG Bearings Corp. v. Perigo*, 8 S.W.3d 118, 121-23 (Mo. Ct. App. 1999) (negligent exposure to toxic chemicals); *St. Lawrence v. Trans World Airlines, Inc.*, 8 S.W.3d 143, 149 (Mo. Ct. App. 1999) (negligent training).

Plaintiff does not oppose Defendants’ Motion, and it is clear that Plaintiff has failed to state a viable claim in Count VII.

Accordingly, it is hereby

ORDERED that Defendants’ Motion to Dismiss [Doc. # 33] is GRANTED. Count VII of Plaintiff’s Complaint is dismissed.

s/ NANETTE K. LAUGHREY
NANETTE K. LAUGHREY
United States District Judge

DATE: April 13, 2006
Jefferson City, Missouri